UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HILDA L. SOLIS, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,

: CIVIL ACTION No. Plaintiff, : 2:09-cv-00988 MAM

JOHN J. KORESKO, V, et al.,

v.

:

Defendants.

PLAINTIFF'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL COMPLAINT

Plaintiff, Hilda L. Solis, Secretary of Labor, United States Department of Labor, moves, pursuant to Federal Rule of Civil Procedure 15(d), for leave file a Supplemental Complaint in the above-captioned case. Accompanying this motion is the proposed Supplemental Complaint with the supplemental averments and claims marked in bold marked as Exhibit A, a proposed "clean" Supplemental Complaint for filing marked as Exhibit B, and a Memorandum of Law in support of this motion.

Plaintiff seeks to add allegations to her Complaint that Defendants John Koresko and Penn Public Trust ("PPT") made representations to the insurance companies issuing policies insuring the lives of Plan participants that PPT was the Plans' trustee, when, in fact, PPT was not the trustee; that these Defendants applied for and obtained loans from those cash value policies and then deposited the proceeds of those loans, in excess of a million dollars, in a checking account under the control of Mr. Koresko that was not the Plans' trust accounts. This conduct constitutes additional violations of Sections 404 and 406 of ERISA by Koresko and PPT and an

additional basis for finding Defendants Koresko, PPT, Penn-Mont Benefits Services, Inc. and Koresko Law Firm liable as co-fiduciaries under Section 405 of ERISA.

WHEREFORE, for all the foregoing reasons and those set forth in the accompanying Memorandum and Supplemental Complaint, Plaintiff respectfully requests that her Motion for Leave to File Supplemental Complaint be granted and that the Supplemental Complaint be accepted for filing. A proposed Order accompanies this motion.

Respectfully submitted,

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